IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.672 OF 2005

Sadhu Dhondi Jadhav ....Petitioner
V/s.
Divisional Controller, .
M.S.R.T.C. Satara & Ors. ....Respondents

Mr.L.S. Gaikwad for the Petitioner.

Mr.G.S. Hegde for Respondent No.1.

CORAM : R.M. SAVANT, J.
DATED : 21ST MARCH, 2007.

P.C. :

1. This Petition takes exception to the order dated 27.10.2004, passed by the 4th Additional District Judge, Satara in R.C.A. No.111 of 2004. The Petitioner is an allottee of a stall in the S.T. stand at Pachgani of Respondent No.1 - Corporation. The Petitioner has been allotted the said stall on the basis of a leave and license agreement entered into between the parties some time in the year 1986. The agreement was for a period of five years and has come to an end in the year 1991. The Petitioner being in arrears of the rent payable under the said agreement, Respondent No.1 invoked the provisions of the Bombay Government Premises (Eviction) Act, 1955 and adopted

the proceedings under Section 4 thereof for eviction of the Petitioner from the premises in question. The said proceedings before the Competent authority culminated in the order dated 22.3.1991 passed by the Competent Authority, directing the Petitioner to pay the arrears upto 22.3.1991 amounting to Rs.11,883/-. Suffice it to say that the Competent Authority did not direct eviction of the Petitioner.

2. Aggrieved by the said order of the Competent Authority directing him to pay Rs.11,883/- as arrears, the Petitioner herein filed an Appeal in the District Court. The Respondents herein filed their cross-objection. It appears that the Petitioner deposited the said amount of Rs.11,883/- and withdrew the Appeal filed by him. Consequently, the cross-objection filed by Respondent No.1 did not survive.

3. Aggrieved by the said proceedings whereby Respondent No.1 herein was left with no alternative in view of the withdrawal of the Appeal filed by the Petitioner. The Respondent No.1 filed a Writ Petition being Writ Petition No.5838 of 2000 in this Court. The said Writ Petition was disposed of at the admission stage and what is significant to note from

the point of view of the present Petition, is that the learned Judge remanded the matter back to the Competent Authority for considering whether the order of eviction could be passed against the Petitioner herein.

4. On such remand, the Competent Authority heard the said application under Section 4 of the Bombay Government Premises (Eviction) Act, 1955 afresh and after such hearing, passed an order directing the eviction of the Petitioner from the premises in question and also directed the payment of Rs.2,67,673/- with interest at the rate of 18% p.a. The Petitioner being aggrieved by the said order passed by the Competent Authority, filed an Appeal being R.C.A. No.111 of 2004. The said Appeal came to be partly allowed by the learned 4th Additional District Judge, Satara by the impugned order dated 27.10.2004. While allowing the said Appeal, the learned Judge has set aside the direction as regards the payment of the amount of Rs.2,67,673/- along with interest at the rate of 18% p.a. and has substituted the same by directing the Petitioner to pay the license fees at the rate of Rs.631/- per month since March, 1991 till handing over the possession of the stall to Respondent No.1. On failing to pay the said

amount, it has been directed that the Respondent No.1 shall be entitled to recover the said amount with interest at the rate of 7% p.a. So far as the eviction of the Petitioner is concerned, the same was confirmed by the Appellate Court.

5. I have heard the learned counsel for the respective parties. On behalf of the Petitioner, it has been submitted that in view of the fact that the Petitioner has cleared all the arrears on the date when payable upto 22.3.1991, no case for invoking the provisions the the Bombay Government Premises (Eviction) Act, 1955 was made out. He further contended that the Petitioner has paid a substantial amount and is also ready and willing to pay such amounts as may be directed by the Respondent No.1.

6. It is contended on behalf of the Respondent No.1 that the Petitioner being admittedly in arrears on the date when the proceedings were filed before the Competent Authority, the payment made subsequently could have no effect so far as the said proceedings for eviction are concerned. It is further submitted by Respondent No.1 that the license was granted to the Petitioner for the period of five years which period has already expired some time in the year 1991. The

Petitioner has continued thereafter without there being any authority in his favour for such occupation. In any event, the learned counsel for Respondent No.1 submitted that no case for interference has been made out by the Petitioner under Article 227 of the Constitution of India.

7. I have perused the impugned orders passed by both the Courts below i.e. the order passed by the Competent Authority as well as the order of the learned 4th Additional District Judge, Satara. Both the Courts below for the reasons which are germane to Section 4 have directed the eviction of the Petitioner from the premises in question. I do not find any illegality or infirmity or error of jurisdiction committed by the Courts below to interfere in the jurisdiction of this Court under Article 227 of the Constitution of India. Petition is therefore dismissed. However, the Petitioner is granted time upto 30th June, 2007 to vacate the premises in question on the condition that the Petitioner furnish an undertaking in this Court within two weeks from the said date and also pays the the arrears and the amount due per month till 30th June, 2007, as directed by the Appellate Court. The payment of arrears shall be subject to the adjustment against the amount already

paid by the Petitioner.

Petition dismissed.

(R.M. SAVANT, J)